

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

State of Oklahoma, et al.,)	05-CV-0329 GKF-SAJ
)	
)	AFFIDAVIT OF
)	KRISTEN SHULTS CARNEY
v.)	IN SUPPORT OF THE DEFENDANTS'
)	REPLY TO MOTION TO COMPEL
Tyson Foods, Inc., et al.,)	PLAINTIFFS' COMPLIANCE WITH
)	THE COURT'S ORDER ON
Defendants.)	DATA PRODUCTION
)	

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

I, Kristen Shults Carney hereby state as follows:

1. I am an attorney at Faegre and Benson, LLP. I represent Cargill, Inc. and Cargill Turkey Production, LLC ("the Cargill Defendants") in the above-captioned litigation. I make this affidavit on personal knowledge and submit it in support of the Defendants' Reply To Motion To Compel Plaintiffs' Compliance With The Court's Order On Data Production.

2. I have reviewed the contents of the Plaintiffs' March 25, 2008 supplemental data production. (See Dkt. No. 1652-2: Ltr. from L. Bullock to M. Bond.) The attached Exhibit A is a chart I prepared to summarize the contents of the Plaintiffs' most recent data production, including the dates of sampling, the dates lab analysis were performed or lab reports were made regarding the data, and the dates when the Plaintiffs' consultants completed their own validation of the data.

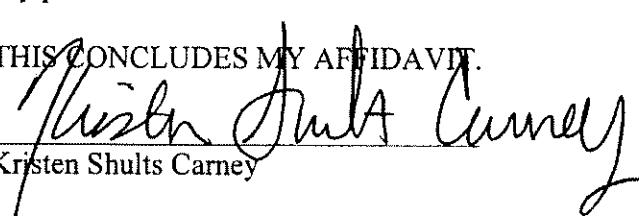
3. As is evident from the chart, the Plaintiffs failed to timely produce much of this data, as required by this Court's January 5, 2007 Order. For example, Plaintiffs have just produced field notebooks, river data, diatom data, and synoptic river field sheets based on

fieldwork that was conducted as early as 2006. Plaintiffs also just produced bacteria data that could potentially have been relevant to the recent motion for preliminary injunction, that was collected in December of 2007 and analyzed in advance of the preliminary injunction hearing.

4. At times, it appears that Plaintiffs withheld data for many months from production before completing their own internal validation process. For example, Plaintiffs produced samples taken in late summer and early Fall 2007 that were not validated for many months. In those cases, even after finally performing an internal validation of the data, the State continued to hold the data for weeks and in some instances months before producing the data. For example, Plaintiffs waited three months before producing 17a-estradiol, 17b-estradiol, Estriol, Estrone data that was taken and analyzed in the Fall of 2007 and validated on December 30, 2007.

5. In other instances, the Plaintiffs withheld data from production for many months even when it appears that no internal validation process was ever performed on the data. This data is reflected in the chart where a "NA" appears in the "Plaintiffs' Validation Date" column. For example, geoprobe samples were collected in June of 2007 and analyzed on July 10, 2007. Based on the Plaintiffs' recent production of this data, it does not appear that a validation report has been produced for this data, yet the Plaintiffs withheld this data from production for over 8 months until March 25, 2008. As can be seen from the chart, in most instances the Plaintiffs did not produce validation reports with the data they produced.

THIS CONCLUDES MY AFFIDAVIT.


Kristen Shults Carney

Subscribed and sworn to before me
this 8th day of April 2008.

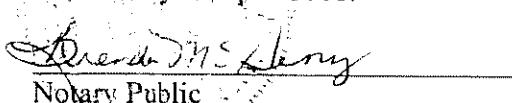

Kristen Shults Carney
Notary Public
My commission expires: 9-11-2010
fb.us.2759888.02

EXHIBIT A TO AFFIDAVIT OF KRISTEN SHULTS CARNEY

Beginning Bates	Ending Bates	Number of Samples	Analysis/Fieldbook/Field Sheet	Sampling/Fieldwork Date	Lab Report or Analysis Date	Plaintiffs' Validation Date
STOK34963	STOK35003		Field Book 1 – 2006 Summer – Litho – Rashida Coulthurst	2006	NA	NA
STOK35004	STOK35051		Field Book 2 – Litho – RPH notebook	2006	NA	NA
STOK35052	STOK35054		Field Book 3 – Litho – Litter/Soil Log Book	2006	NA	NA
STOK35055	STOK35059		Field Book 4 – Litho	2007	NA	NA
STOK35060	STOK35359		Synoptic River Field Sheets	2006	NA	NA
STOK49330	STOK49347		Field Books	August 2007	NA	NA
STOK35360	STOK35411		Team 1 April-May 2007 Notes	April – May 2007	NA	NA
STOK35412	STOK35439		Team 2 April-May 2007 Notes	April – May 2007	NA	NA
			Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/4/2007	12/21/2007	NA
STOK0035440	STOK0035442	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/4/2007	12/21/2007	NA
STOK0035443	STOK0035445	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/6/2007	12/21/2007	NA
STOK0035446	STOK0035448	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/6/2007	12/21/2007	NA
STOK0035449	STOK0035451	1	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/7/2007	12/21/2007	NA

EXHIBIT A TO AFFIDAVIT OF KRISTEN SHULTS CARNEY

			Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)			
STOK0035452	STOK0035454	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/13/2007	12/21/2007	NA
STOK0035455	STOK0035458	3	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/12/2007	12/21/2007	NA
STOK0035459	STOK0035461	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/12/2007	12/26/2007	NA
STOK0035462	STOK0035465	3	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/6/2007 & 12/7/2007	12/21/2007	NA
STOK0035466	STOK0035468	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/13/2007	12/21/2007	NA
STOK0035469	STOK0035471	1	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/14/2007	12/21/2007	NA
STOK0035472	STOK0035475	3	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/13/2007	1/15/2008	NA
STOK0035476	STOK0035478	1	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/19/2007	1/15/2008	NA

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		Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)			
STOK0035479	STOK0035482	4	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	12/18/2007	1/18/2008
STOK0035483	STOK0035485	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	1/9/2008	1/18/2008
STOK0035486	STOK0035488	1	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	1/10/2008	1/18/2008
STOK0035489	STOK0035491	1	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	2/4/2008	2/15/2008
STOK0035492	STOK0035495	3	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	2/5/2008	2/15/2008
STOK0035496	STOK0035498	1	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	2/7/2008	2/15/2008
STOK0035499	STOK0035501	2	Bacteria (total coliform, fecal coliform, e.coli, staphylococcus aureus, enterococcus group, salmonella species)	2/18/2008	3/4/2008
STOK0035502	STOK0035504	2			

EXHIBIT A TO AFFIDAVIT OF KRISTEN SHULTS CARNEY

STOK0035505	STOK0035517	3	Chloride, Nitrate, TOC	8/6/2007	8/24/2007	2/18/2008
STOK0035518	STOK0035530	3	Chloride, Nitrate, TOC	8/8/2007	8/24/2007	2/18/2008
STOK0035531	STOK0035554	6	Chloride, Nitrate, TOC, alkalinity, trihalomethane	8/15/2007	9/13/2007	2/18/2008
STOK0035555	STOK0035600	13	Chloride, Nitrate, TOC, alkalinity, trihalomethane	8/28/2007	9/24/2007*	2/18/2008
STOK0035601	STOK0035705	18	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	10/25/2007	11/29/2007	2/18/2008
STOK0035706	STOK0035785	13	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	10/17/2007	11/29/2007	2/18/2008
STOK0035786	STOK0035872	14	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	12/7/2007	1/10/2008	2/18/2008
STOK0035873	STOK0035934	9	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	11/13/2007	12/21/2007	2/18/2008
STOK0035935	STOK0036010	12	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	12/13/2007	1/17/2008	2/18/2008
STOK0036011	STOK0036138	18	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	12/18/2007	1/17/2008	2/18/2008
STOK0036139	STOK0036153	9	17a-estradiol, 17b-estradiol, Estriol, Estrone	10/1/2007 - 10/4/2007	10/25/2007	12/30/2007
STOK0036154	STOK0036167	3	17a-estradiol, 17b-estradiol, Estriol, Estrone	10/9/2007 - 10/10/2007	10/26/2007	12/30/2007
STOK0036168	STOK0036181	2	17a-estradiol, 17b-estradiol, Estriol, Estrone	10/15/2007	9/6/2007	12/30/2007
STOK0036182	STOK0036195	4	17a-estradiol, 17b-estradiol, Estriol, Estrone	10/17/2007 - 10/18/2007	11/28/2007	12/30/2007
STOK0036196	STOK0036210	6	17a-estradiol, 17b-estradiol, Estriol, Estrone	12/3/2007 - 12/6/2007	12/31/2007	12/30/2007
STOK0049252	STOK0049270	14	17a-estradiol, 17b-estradiol, Estriol, Estrone	11/13/2007 - 12/13/2007	12/31/2007	3/18/2008
STOK0049271	STOK0049285	9	17a-estradiol, 17b-estradiol, Estriol, Estrone	12/7/2007 - 12/19/2007	1/23/2008	3/18/2008

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STOK0049286	STOK0049300	4	17a-estradiol, 17b-estradiol, Estriol, Estrone	1/9/2008 - 1/10/2008	1/23/2008	3/18/2008
STOK0049301	STOK0049315	5	17a-estradiol, 17b-estradiol, Estriol, Estrone	2/4/2008 - 2/7/2008	3/6/2008	3/18/2008
STOK0049316	STOK0049329	6	17a-estradiol, 17b-estradiol, Estriol, Estrone	2/1/2008 - 2/18/2008	3/6/2008	3/18/2008
NA	NA	20	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	1/23/2007	2/13/2007**	NA
NA	NA	18	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	12/7/2007-12/19/2007	1/15/2008**	NA
NA	NA	18	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	3/26/2007-3/29/2007	4/12/2007**	NA
NA	NA	11	TOC	4/11/2007	4/16/2007**	NA
NA	NA	33	TOC	4/12/2007 - 4/16/2007	4/23/2007**	NA
NA	NA	4	TOC	4/20/2007-4/22/2007	4/26/2007**	NA
NA	NA	4	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	4/13/2007	5/4/2007**	NA
NA	NA	30	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	4/24/2007-5/01/2007	5/12/2007**	NA
NA	NA	48	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	5/2/2007-5/3/2007	5/29/2007**	NA
NA	NA	8	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	5/8/2007 - 5/10/2007	5/29/2007**	NA
NA	NA	18	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	5/21/2007	6/3/2007**	NA
NA	NA	8	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	6/12/2007	7/2/2007**	NA

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NA	NA	14	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	6/26/2007-6/27/2007	7/10/2007**	NA
NA	NA	24	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	7/10/2007-7/11/2007	7/27/2007**	NA
NA	NA	25	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	7/23/2007	8/1/2007**	NA
NA	NA	3	nitrate, ammonium, sulfate, chloride	8/6/2007-8/7/2007	8/23/2007**	NA
NA	NA	3	nitrate, ammonium, sulfate, chloride	8/8/2007 - 8/9/2007	8/23/2007**	NA
NA	NA	4	nitrate, ammonium, sulfate, chloride	7/27/2007-7/28/2007	8/13/2007**	NA
NA	NA	4	nitrate, ammonium, sulfate, chloride	7/29/2007-7/30/2007	8/13/2007**	NA
NA	NA	6	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	7/30/2007	8/13/2007**	NA
NA	NA	8	nitrogen, TOC, TTHM	8/15/2007	8/26/2007**	NA
NA	NA	18	nitrogen, TOC, TTHM	8/28/2007-8/29/2007	9/21/2007**	NA
NA	NA	6	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	6/28/2007	7/18/2007**	NA
NA	NA	11	nitrogen, TOC, TTHM	7/17/2007	7/31/2007**	NA
NA	NA	12	nitrogen, TOC, TTHM	7/18/2007	8/1/2007**	NA
NA	NA	15	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	3/9/2006-3/10/2006	3/31/2006**	NA
NA	NA	50	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	8/4/2006-8/11/2006	8/31/2006**	NA
NA	NA	18	soluble salts, nitrate, ammonium, sulfate, chloride	10/25/2007-10/26/2007	11/20/2007**	NA
NA	NA	12	metals, phosphorus, nitrogen, soluble salts, nitrate, ammonium, sulfate, chloride	10/17/2007-10/18/2007	11/20/2007**	NA

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NA	NA	467	chlorophyll a	4/12/2007- 6/13/2007	4/18/2007- 5/9/2007 **	NA
NA	NA	84	benthic macroinvertebrate abundance	6/12/2007-8/29/2007	6/13/07- 8/29/2007**	NA
NA	NA	69	benthic macroinvertebrate abundance	4/2007	9/5/2007	NA
NA	NA	10	benthic macroinvertebrate abundance	4/2007 and 6/2007	9/12/2007	NA
NA	NA	approx. 90,000	diatom counts	9/26/2006 – 5/2007	NA	NA
NA	NA	14	microcystin with ELISA list of toxin-producing cyanobacteria, abundance data for phytoplankton (chlorophyta, bacillariophyceae, cyanobacteria, microflagellates, haptophyta, pyrrhophyta, cryptophyta, chrysophyta, euglenophyta), cylindrospermopsis in phytoplankton (number of filaments and % filaments), macroalgae	6/2007 – 8/2007	NA	NA
NA	NA	7		6/12/2007-8/29/2007	8/29/2007**	NA
NA	NA	494		3/2007-5/2007	NA	NA

* Date is "revised report date" - the original report was not produced.

** Lab Report not received. Date reported is last known analysis date for at least one of the included samples.